

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RHONALD MARTINEZ §
VS. § CIVIL ACTION NO. 1:21cv421
WARDEN SMITH, ET AL. §

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Rhonald Martinez, an inmate at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the action be dismissed without prejudice for want of prosecution.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. The Prison Litigation Reform Act of 1996 (PLRA) requires prisoners seeking to bring civil actions to pay the full filing fee. When insufficient funds exist to pay the full fee at the time of filing, a prisoner requesting to proceed *in forma pauperis* is required to pay an initial partial filing fee of twenty percent of the greater of the average monthly balance or deposits into the prisoner's account. After

payment of the initial partial filing fee, twenty percent of each preceding month's income will be deducted from Plaintiff's inmate account monthly until the full filing fee is paid. In this case, however, plaintiff has neither paid the filing fee nor submitted an application to proceed *in forma pauperis*. As explained in the Report and Recommendation of the Magistrate Judge, prisoners may not avoid paying the filing fee as required by the PLRA by improperly joining claims. As plaintiff has neither paid the filing fee nor filed an application to proceed *in forma pauperis*, the above-styled action should be dismissed without prejudice for want of prosecution.

O R D E R

Accordingly, plaintiff's objections are OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is ADOPTED. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED this 20th day of August, 2022.



Michael J. Truncale
United States District Judge